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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/129,448	08/04/1998	RONALD L. MAHANY	DN37998XEA	4521
20790	7590 03/14/2002			
AKIN GUMI	STRAUSS HAUER	EXAMINER		
816 CONGRE	· · · · · · · · · · · · · · · ·	NGUYEN, TOAN D		
AUSTIN, TX	/8/01		ART UNIT	PAPER NUMBER
			2665	
			DATE MAILED: 03/14/2002	!

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary Examiner			Application No.	Applicant(s)				
Toan D Nguyen The MAILING DATE of this communication appears on the cover sheet with the correspondence address— Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. If the period for reply specified above is less san thisty (20) steps, a reply within the datablory militimum of thirty (20) says will be considered fitnely. If the period for reply specified above is less san thisty (20) steps, a reply within the datablory militimum of thirty (30) says will be considered fitnely. If the period for reply specified above is less san thisty (20) steps, a reply within the datablory militimum of thirty (30) says will be considered fitnely. If the period for reply specified solves he nearmonic and the reply should be considered fitnely. If the period for reply specified solves he seem should be communication. If the period for reply specified solves he seem should be communication. A proper seemed by the Office laber flash three months after the mailing date of this communication, even if threely filled, may reduce any centre patient an eligitations. Status Status Status Status Status Status A possible of Claims A) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims A) Claim(s) 51-61 is/are replected. Claim(s) 51-61 is/are rejected. Claim(s) 51-61 is/are rejected. Claim(s) 51-61 is/are rejected. Claim(s) 51-61 is/are rejected. Claim(s) 51-61 is/are rejected to 91 the Examiner. Application Papers 9) The specification is objected to by the Examiner. Application Papers 9) The proposed drawing correction filed on is/are objected to by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) The	Office Action Summary		09/129,448	MAHANY ET AL.				
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THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provides of 37 CFR 1.13(g). In no event, however, may a raply be firrely filed after SX (8) MONTRIS from the mailing date of this communication. It NO search for may be supelialed above, the maintained in the communication. It NO search for raply is supelialed above, the maintained in the part and vill agree (20) Any the provided in the part and vill agree (20) Any tops (20) Any tops (20) Any tops) received by the Office where the hitesometric after the mailing date of this communication, were if timely filed, may reduce any Status. Status 1) [2] Responsive to communication(s) filed on 31 January 2002. 2a) This action is FINAL. 2b) [2] Claim(s) [3-61] is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5b] Claim(s) [3-61] is/are rejected. 7b] Claim(s) [3-61] is/are rejected. 7claim(s) [3-62] is/are allowed. 6c) Claim(s) [3-62]	The MAILING DATE of this communication appears on the cover sheet with the correspondence address							
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DETAILED ACTION

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ormum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 51-61 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-11 of U.S. Patent No. 5,790,536. Although the conflicting claims are not identical, they are not patentably distinct from each other because the application's claims 51-61 merely broaden the scope of U.S. Patent No. 5,790,536 claims 1-11 by eliminating the relayed data. It has been held that the omission of an element and its

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function is an obvious expedient if the remaining elements perform the same function as before. In re Karlson, 136USPQ 184 (CCPA). Also note Ex parte Rainu, 168 USPQ 375 (Bd. App. 1969); omission of a reference element whose function is not needed would be obvious to one skill in the art.

Response To Arguments

3. Applicant's arguments filed on January 31, 2002 have been fully considered, but are most in view of the new ground(s) of rejection.

Contact Information

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan D Nguyen whose telephone number is 703-305-0140. The examiner can normally be reached on Monday- Friday (7:00AM-4:30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on 703-308-6602. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-9600.

7N T.N.

> HUY D. VU PRIMANY PRIMA